
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JEFFREY CHARLES ZANDER,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

**MEMORANDUM DECISION AND
ORDER DENYING MR. ZANDER'S
[13] MOTION FOR RELEASE**

Case No. 2:15-CV-00625-DN

District Judge David Nuffer

Pending for review is Petitioner Jeffrey Zander's Motion for Release.¹ For the reasons stated below, the Motion is DENIED.

Mr. Zander contends he is entitled to release from prison in order to effectively pursue his 28 U.S.C. § 2255 motion. Mr. Zander states that his "case files and legal materials have been seized by Bureau of Prisons officials and not returned[,] and "[t]his denial of access to case files and legal materials prevents him from preparing and presenting his case under 28 U.S.C.

[§ 2255](#)."²

Courts have inherent power to release a defendant pending a ruling on a habeas petition if the defendant shows "exceptional circumstances" or "a clear case on the merits of the habeas petition."³ Mr. Zander has not shown exceptional circumstances for release. Mr. Zander states that he is denied access to case files and legal material, but he does not provide any information on what he possess or what he lacks, and why he is unable to prepare for his § 2255 motion without the material. Furthermore, although not fully briefed, Mr. Zander's § 2255 motion has

¹ [Docket no. 13](#), filed June 17, 2106.

² *Id.* at 2.

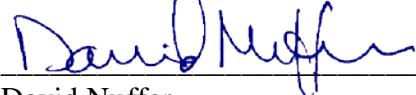
³ [Pfaff v. Wells](#), 648 F.2d 689, 693 (10th Cir.1981).

been preliminarily reviewed, and it does not appear, at this time, that Mr. Zander has demonstrated a clear case on the merits.

IT IS THEREFORE ORDERED that Mr. Zander's Motion for Release is DENIED.

Dated July 18, 2016.

BY THE COURT:



David Nuffer